

Remarks

The Amendments

Claim 12 was amended to provide a period at the end of the claim. New claims 16-18 were added. The amendments add no new matter and Applicants respectfully request their entry.

The Restriction Requirement

Applicants elect Group III, claims 10-15, **with traverse**. Applicants respectfully request rejoinder of Groups II (claims 4-9) and Group III (claims 10-15). There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- The inventions must be independent (see MPEP § 802.01; § 806.04; § 808.01) or distinct as claimed (see MPEP §806.05 -806.05(i)); **and**
- There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02; § 806.04(a) – 806.04(i); 808.01(a); and 808.02).

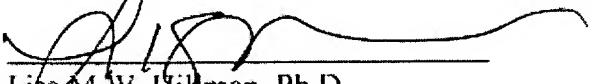
For purposes of the initial restriction requirement, a serious burden on the examiner can be *prima facie* shown if the examiner shows appropriate explanation of separate classification, or separate status in the art, or a different field of search. *See*, M.P.E.P. § 803. “Separate classification” can be shown by demonstrating that each distinct subject has attained recognition in the art as a separate subject for inventive effort, *and* also a separate field of search. *See*, M.P.E.P. §808.02. A “separate status in the art” (even when the subjects are classified together) can be shown with an explanation indicates a recognition of separate inventive effort by inventors. Separate status in the art can be shown by citing patents that are evidence of such separate status, *and* also of a separate field of search. *See*, M.P.E.P. §808.02. A “different field of search” can be demonstrated by showing that it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists, or a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. *See*, M.P.E.P. §808.02.

Applicants assert that the Office has not demonstrated proper reasons for dividing claims 4-15 into 2 groups of inventions. Specifically, Applicants assert that Groups II (claims 4-9), Groups III (claims 10-15) should be rejoined. Each of the claims in these groups is drawn to methods of detecting binding of cells to one or more specific binding substances using a

colorimetric resonant reflectance optical biosensor, wherein the biosensor is an internal surface of a vessel. The Office has not provided adequate evidence that the claims have separate classifications, separate status in the art or a different field of search. Additionally, there is no serious burden on the Examiner to search these two groups of claims. Therefore, Applicants respectfully request the rejoinder of Groups II and III.

Date: 7/10/06

Respectfully submitted,


Lisa M. W. Hillman, Ph.D
Registration No. 43,673